

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-290-C - ORDER NO. 2004-39
JANUARY 30, 2004

IN RE:	Application of TSI Telecommunication)	ORDER GRANTING
	Network Services, Inc. for a Certificate of)	CERTIFICATE
	Public Convenience and Necessity to Provide)	
	Resold Private Line Services in the State of)	
	South Carolina)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of TSI Telecommunication Network Services, Inc. (“TSI” or the “Company”) for authority to provide resold private line services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. Section 58-9-280 (Supp. 2002), and the Rules and Regulations of the Commission.

By letter, the Commission’s Executive Director instructed the Applicant to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. The Applicant complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition (“SCTC”).

Counsel for SCTC filed with the Commission a Stipulation in which the Applicant stipulated that it would not seek authority in rural local exchange (“LEC”) service areas of South Carolina and that it would not provide any local service to any customer located

in a rural incumbent's service area, unless and until TSI provided written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. The Company also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. TSI agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to the Company provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on January 8, 2004, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Mignon Clyburn, Chairman, presided. TSI was represented by Faye A. Flowers, Esquire. David J. Robinson, Regulatory Affairs Manager of TSI, appeared and testified on behalf of the Company. Jocelyn Boyd, Staff Counsel, represented the Commission Staff.

Mr. Robinson presented testimony to demonstrate the Company's financial, managerial, and technical ability to provide the telecommunications services for which authority is sought in South Carolina. The sole witness also presented testimony regarding his background and experience in business and telecommunications as well as that of the other executives of TSI. Mr. Robinson testified that he has 17 years experience working in the telecommunications industry and has previously been employed by Qwest Communications and U S WEST in marketing and technology

deployment and holds a B.A. Degree in Business Administration from the University of Colorado.

Mr. Robinson testified and provided documentary evidence that TSI is a Delaware Corporation based in Tampa, Florida and is authorized to conduct business in the State of South Carolina under authority granted to TSI by the South Carolina Secretary of State. TSI seeks authority to offer private line telecommunications services to business customers in South Carolina. The Company asks for the ability to negotiate private line rates on an individual case basis (ICB). TSI intends to resell private line transport to support internal and external business applications. Such systems will include point-to-point or multi-point service with data speeds adaptable to meet customer needs in a variety of configurations.

The private line services which TSI proposes to offer in South Carolina are similar to those currently offered by the Company in Pennsylvania and Florida, where they have 16 customers. TSI seeks to provide high speed data line service to high capacity businesses. TSI is only seeking authority to resell private line, “point-to-point,” dedicated transport services. Circuits associated with private line services of this type are not assigned “telephone numbers” and are not designed to support local calling.

TSI has its own sales force and intends to market its services through direct marketing. TSI does not intend to use telemarketing in South Carolina and will be marketing its service exclusively to large business customers in South Carolina. TSI will not provide service to residential customers and will offer no voice services in South Carolina.

TSI has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 which requires the Company to keep its books and records in the State of South Carolina.

Mr. Robinson testified that the residents of South Carolina will benefit from TSI's service and presence in South Carolina. The Company's Application states that TSI believes that public interest will be furthered by an expansion by TSI of competitive private line transport services in the State of South Carolina. Further, TSI will provide businesses in this State a resource to compare rates for private service lines. Under TSI's business plan, the negotiated private line rates between TSI and carriers such as AT&T and Sprint will be passed on to the customers, creating efficiencies and cost savings to South Carolinians.

The testimony and record in this case reveals that the Company's Application to provide telecommunications services in other jurisdictions has never been denied, and the Company agrees to abide by and comply with the Commission's rules, regulations, and Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. TSI is a Delaware corporation headquartered in Tampa, Florida. It is currently licensed to and doing business in the states of Florida and Pennsylvania.
2. TSI is a provider of private line telecommunications services and wishes to provide its services in South Carolina.

3. As evidenced by the testimony of its Regulatory Affairs Manager, David Robinson, and the documents filed with this Commission, TSI possesses the technical and managerial expertise and financial resources to commence operations as a telecommunications service provider in South Carolina.

4. We find that TSI's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280 (B)(3) (Supp. 2002).

5. We find based on the testimony and documents in the record in this case that TSI will support universally available telecommunications services at affordable rates.

6. We further find that based on the technical and managerial expertise of its officers and employees, as evidenced by the testimony and documents in the record in this case, that TSI has the capability to provide services which will meet the service standards of the Commission.

7. The Commission finds that TSI's provision of private line services in South Carolina will not "adversely impact the public interest." S.C. Code Ann. Section 58-9-280 (B)(5) (Supp. 2002).

8. We find that the issuance of the authority requested by TSI is in the best interests of the citizens of the State of South Carolina.

CONCLUSIONS OF LAW

1. The Commission concludes that TSI possesses the managerial, technical, and financial resources to provide the resold private line telecommunications services as described in its Application.

2. The Commission concludes that TSI's "provision of service will not adversely impact the availability of affordable local exchange service."

3. The Commission concludes that TSI will participate in the support of universally available telephone service at affordable rates to the extent that TSI may be required to do so by the Commission.

4. The Commission concludes that TSI will provide services which will meet the service standards of the Commission.

5. The Commission concludes that the provision of private line services by TSI does not, and will not otherwise, adversely impact the public interest.

6. The Commission concludes that approval of TSI's Application to provide private line telecommunications services within South Carolina will serve the public interest by enhancing competition in the State by offering additional service offerings to South Carolina's business consumers and by providing for efficient use of existing telecommunications resources.

7. The Commission concludes that the issuance of the authority to provide private line telecommunications services as requested by TSI, and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

8. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to TSI to provide private line telecommunications services in South Carolina.

9. Due to the somewhat unusual character of its service offerings, TSI has requested, and is hereby authorized the authority, to negotiate private line rates on an individual case basis (ICB) with its underlying carriers and customers. The schedule of rates discussing ICB pricing submitted to this Commission in the Company's Application is hereby referenced and approved contingent upon the other requirements and limitations as stated in the remainder of this Order.

11. The Commission concludes that the terms of the Stipulation between TSI and the SCTC should be and are hereby approved and adopted as a part of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT:

1. A Certificate of Public Conveyance and Necessity is granted to TSI to provide private line telecommunications services.

2. The terms of the Stipulation between TSI and the SCTC are approved and adopted as a part of this Order. The Stipulation is attached to this Order as Exhibit 1 and is hereby incorporated as a part of this Order. Any proposal to provide competitive intrastate local exchange telecommunications services to rural service areas is subject to the terms of this Stipulation.

3. If it has not already done so by the date of issuance of this Order, TSI shall file its revised private line tariff within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

4. Prior to offering local exchange services in South Carolina, TSI shall file a request for amendment of its Certificate of Public Convenience and Necessity to provide such services and shall file a tariff for its local service offerings conforming to and comporting with South Carolina law in all matters.

5. TSI is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. TSI shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If TSI changes underlying carriers, it shall notify the Commission in writing.

7. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

TSI shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall

utilize the “Authorized Utility Representative Information” form which can be located at the Commission’s website at www.psc.state.sc.us/reference/forms.asp to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. TSI shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

9. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

10. TSI shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, TSI shall keep financial records on an intrastate basis for South Carolina in order to comply with the Commission’s requirements of filing an annual report and a gross receipts report. The proper form for filing annual financial information for the annual report may be found on the Commission’s website at www.psc.state.sc.us/reference/forms.asp . The Company shall file the annual report form with the Commission by April 1st of each year. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year. The appropriate form for remitting information for gross receipts is entitled “Gross Receipts Form for Utility Companies” and may also be found on the Commission’s website at www.psc.state.sc.us/reference/forms.asp .

11. For good cause shown, TSI is granted a waiver of the requirement contained in 26 S.C. Code Ann. Regs. 103-610 that it maintain its books and records in the State of South Carolina and is hereby authorized to keep its books and financial records at its corporate headquarters located at One Tampa Center, Suite 700, Tampa, Florida. If such books and records are moved, the Company shall promptly notify the Commission Staff.

12. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Mignon L. Clyburn, Chairman

ATTEST:

/s/
Bruce F. Duke, Executive Director

(SEAL)